

## ORDINANCE NO. 2017-02

### AN ORDINANCE CONCERNING TREES AND VEGETATION

WHEREAS, well-maintained trees and vegetation within the Town of Whitestown (“Town” or “Whitestown”) has a profound effect on the public health, safety, welfare, and quality of life within the community; and

WHEREAS, the Whitestown Town Council (“Town Council”) finds that it is in the public interest of Whitestown and its citizens to further establish the responsibilities of the Town and its residents concerning the maintenance and upkeep of trees and vegetation within the Town; and

WHEREAS, the Town Council desires to amend and restate its current tree and vegetation regulations.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Whitestown, Indiana, as follows:

**Section 1. Trees and Vegetation.** Chapter 8.10: “Trees and Vegetation” of Title 8: “Health and Safety” of the Town Code is hereby amended and restated as follows:

**8.10.010 Public property.** It shall be unlawful for any person to trim, remove, or plant, injure, or destroy any tree, vine, shrub, flower, or plant within any public place without first obtaining written permission from the Town Manager, the Public Works Director, or their designee(s).

**8.10.020 Private property.** All property owners and/or occupants shall be responsible for the care and maintenance of all trees, shrubs, and vegetation located on their property. It shall be the responsibility of each property owner and/or occupant to remove, trim, and maintain the following:

- (1) Any tree, shrub, or vegetation that encroaches onto any street or sidewalk;
- (2) Any tree, shrub, or vegetation that obstructs the view of any address marker, street sign, streetlight, intersection, traffic marking, or other traffic control device;
- (3) Any trees or tree limbs that are dead, diseased, insect infested, broken, or decayed that constitute a potential threat to life, property, or the public safety;
- (4) Any tree or tree limb that encroaches onto an adjacent property and poses a potential threat to life, property, or the public safety; and/or
- (5) Any tree, shrub, vine or plant, or part thereof that projects over such street beyond the property line of such owner or occupant to a height of 10 feet or less, according to the size, or any tree obstructing the free passage of pedestrians on the sidewalk.

### **8.10.030 [Reserved]**

**8.10.040 Trimming.** When trees are trimmed, all dead wood shall be cut out and all refuse removed.

**8.10.050 Regulation and specifications.** The Town Council shall have further power from time to time to adopt rules, regulations and specifications, not inconsistent herewith, for the trimming, removal and protection of all trees, shrubs, vines and plants within the limits of any public street, alley, thoroughfare, park or lawn in the Town, and have the power to regulate and prescribe the terms and conditions, not inconsistent herewith, upon which permits to trim, remove or cut any such trees, shrubs, vines or plants may be issued.

**8.10.060 Application.** Application of WMC 8.10.070 shall not apply to any parcel(s) of land zoned agriculture.

**8.10.070 Weeds and grass.** It shall be unlawful for the owner and/or occupant of any lot or parcel of ground within the corporate limits of the Town to allow the growth of weeds or grass to exceed eight inches in overall height. The owner and/or occupant of a lot or parcel of ground shall maintain or arrange for the maintenance of the parcel with regular mowing and clearing of grass and weeds on the property so that such growth remains below eight inches in overall height.

**8.10.080 Violation.** Failure to maintain trees, shrubs, grass, weeds, and any other vegetation as proscribed above shall be a violation of this chapter.

**8.10.090 Enforcement.** The Whitestown Police Department and/or Whitestown Code Enforcement Officer shall issue a written ordinance violation warning to the owner or occupant of said property notifying them of the violation and of their responsibility to resolve the violation within 10 days of the date of the warning. If the owner or occupant cannot be found, the ordinance violation warning may be placed upon the building of said property or affixed in another manner to the property, and, by doing so, it shall constitute the warning being duly served. If, within 30 days of receiving the first written notice, the owner or occupant receives a second notice for a separate violation occurring on the property, then owner or occupant shall have 5 days from the date of the warning to resolve both violations. If, within 60 days of receiving the first notice, the owner or occupant received a third notice for a separate violation occurring on the property, then the owner or occupant shall have 3 days from the date of the warning to resolve all violations.

**8.10.100 Remedies.** Upon failure of the owner and/or occupant to comply with the written warning provided for under WMC 8.10.090, the Town is authorized to, and may, remedy the violation at issue. The Town shall maintain an accurate account of the expense incurred as a result of remedying the violation, which shall include documentation of all fees and costs incurred in providing notice to owner and/or occupant, and all costs of recording a lien on the property. If the Town must mow the property in order to remedy the violation, mowing shall be charged at a rate of \$100 per hour. If the Town takes action to bring the property into compliance, all expenses incurred by the Town, including

administrative costs and removal costs, shall be billed to the owner and/or occupant and constitute a lien against the property that may be recorded against the property and enforced pursuant to I.C. § 36-1-6-2, or other applicable law.

If within a 60-day time period from the issuance of an ordinance violation warning said lot or parcel of ground is not kept maintained in accord with this chapter, the Whitestown Police Department or Code Enforcement Officer may issue a ticket for repeated violation of an ordinance. The fine shall be no less than \$100.00 and no more than \$1,000.00, plus court fees where applicable. The money derived from such fines shall be deposited into the Town’s general fund.

**Section 2. Severability.** The provisions of this Ordinance are severable, and the invalidity of any phrase, clause, or part of this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

**Section 3. Superseding Clause.** All ordinances or parts of ordinances inconsistent or in conflict with the terms of this Ordinance, including but not limited to, the prior version of Chapter 8.10 of the Whitestown Town Code, are repealed to the extent of such inconsistency or conflict.

**Section 4. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to the laws of the State of Indiana.

Passed and adopted by the Whitestown Town Council on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

THE TOWN COUNCIL OF THE TOWN  
OF WHITESTOWN, INDIANA

YAY/NAY

\_\_\_\_\_  
Eric Miller, President

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Susan Austin, Vice President

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Kevin Russell

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Clinton Bohm

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Jeffrey Wishek

**ATTEST:**

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Matthew Sumner, Clerk-Treasurer  
Town of Whitestown, Indiana

